

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Donald H. Jenkins, #31663-018,	)	C/A NO. 3:10-1968-CMC-JRM
	)	
Plaintiff,	)	
	)	<b>OPINION and ORDER</b>
v.	)	
	)	
Federal Bureau of Prisons, et al; Harley	)	
Lappin, Director; Mr. Simmons, Food	)	
Service Administrator; and Mr. Simon,	)	
Cook Foreman,	)	
	)	
Defendants.	)	
_____	)	

This case is before the court on Plaintiff's pro se complaint, filed in this court pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Currently, the matter is before the undersigned for review of the Report and Recommendation of the Magistrate Judge recommending dismissal of the complaint for failure to exhaust administrative remedies.

The record as it now exists contains a BP-9 dated November 20, 2007. Dkt. #1-1 at 20. There is no response from the Warden included on this BP-9. On December 6, 2007, Plaintiff submitted a BP-10 stating, "I, Donald Jenkins, appeal the wardens [sic] decision to time bar me on November 26, 2007." Dkt. #1-1 at 22. The "Rejection Notice" from the Administrative Remedy Coordinator, Southeast Regional Office, dated December 28, 2007, states: "You must first file a BP-9 request through the institution for the Warden's review and response before filing an appeal at this level." Dkt. #1-1 at 18. It would appear, therefore, that the record may be incomplete.

The Government is hereby directed to review the underlying administrative file of this matter

and provide the court with an affidavit or declaration of a qualified individual (together with relevant copies of any pertinent filings) addressing Plaintiff's efforts to exhaust administrative remedies relating to the incident which occurred September 24, 2007. This affidavit or declaration, together with other relevant material, shall be filed no later than **Friday, August 5, 2011**.

By the same date, Plaintiff is directed to provide this court with any other material relevant to this issue, including any "decision of the Warden" dated November 26, 2007.

**IT IS SO ORDERED.**

s/Cameron McGowan Currie  
CAMERON McGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
July 19, 2011